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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

PCT

(PCT Article 36 and Rule 70)

REC'D 01 NOV 2004

WIPO


Applicant's or agent's file reference 108691	<b>FOR FURTHER ACTION</b>	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. <b>PCT/AU2003/000789</b>	International Filing Date (day/month/year) 24 June 2003	Priority Date (day/month/year) 24 June 2002
International Patent Classification (IPC) or national classification and IPC <b>Int. Cl.<sup>7</sup> G01V 3/14, G01R 33/20</b>		
Applicant <b>QRSCIENCES TECHNOLOGIES PTY LTD et al</b>		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 31 December 2003	Date of completion of the report 12 October 2004
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>ROBERT BARTRAM</b> Telephone No. (02) 6283 2215

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/AU2003/000789

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

- ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).*

\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**WRITTEN OPINION**

International application No.  
**PCT/AU2003/000789**

**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims 15 to 25	YES
	Claims 1 to 14	NO
Inventive step (IS)	Claims	YES
	Claims 1 to 25	NO
Industrial applicability (IA)	Claims 1 to 25	YES
	Claims	NO

**2. Citations and explanations**

D1) WO 1999/045408 refer to page 2 line 10-11, 33 to page 3 line 3 and page 7 line 16 to page 15 line 10

D2) US 5583437 refer to column 2 line 15 to column 12 line 18

D3) WO 1992/021989 refer to page 3 line 9 to page 26 line 27

**NOVELTY: CLAIMS 1-14**

The invention you have defined in claims 1 to 14 is not novel in light of documents D1 to D3 as they each disclose all of the features defined in these claims. In particular a NQR sensing apparatus or method wherein "an extraneous parameter that may influence the detection" is compensated for. The terminology "extraneous parameter" is very broad and includes approaching infinite parameters. Temperature of the testing environment is clearly disclosed along with pressure and surrounding SNR factors in these citations. This clearly renders these claims as presently drafted an not novel.

**INVENTIVE STEP: CLAIMS 1- 25**

Claims 1 to 14 as above

Claims 15 to 25 introduce the detection of metallic objects in the tested object that may shield the substances that are to be detected from the test. I consider that to test for metallic objects in the field of your application is very well known and is a part of the common general knowledge. Faced with the problem of detecting metallic objects a person skilled in the art of scanning objects would immediately consider the use of X-ray scanners and hence would overcome this problem without the need of an inventive thought. As a result claims 15 to 25 add nothing that a person skilled in the art would not implement by applying their common general knowledge thus rendering these claims as not inventive.

**INDUSTRIAL APPLICABILITY CLAIMS 1 - 25**

All of the claims clearly define features that satisfy the industrial applicability criterion.

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Claim 1 is not fully supported by what is disclosed in your description because of the use of the terminology "an extraneous parameter " at line 11. Clearly this terminology includes within its scope countless options that you have not disclosed in your description hence rendering the scope of this claim as unsupported by your description. From your description you disclose the following parameters; temperature, metal objects, and size.